

Appl. No. 10/076,051 Amdt. dated May 19, 2004 Reply to Office action of Nov. 19, 2004

REMARKS/ARGUMENTS

- Claims 1-50 remain in this application.

In response to the Office Action of May 19, 2004, Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

Applicants wish to thank the Examiner for the courtesies extended to Applicants' representatives during a telephonic interview including Examiner Metzmaier, Earl Cranor, and the undersigned, Ferris Lander.

During the interview, Applicants' representative and Mr. Cranor discussed the verbage on page 39 of the application, wherein it was stated that "The resulting composition was not a liquid slurry, but rather a moist, packable and formable powder characterized as a fluidizable solid admixture". It is believed that Examiner Metzmaier was in agreement that this characterization as a powder differentiated the instant invention from a slurry.

Rejection under 35 USC 103(a)

Claims 1-12 and 26-36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al, US 5,173,218. Cohen et al (column 1, line 51; to column 2, line 7; column 2, lines 44 et seq; column 3, lines 12-36 and 40; column 4, lines 13 et seq; column 5, lines 66; examples and claims) discloses the formation of a porous flexible plasticized structure (column 1, lines 53 et seq) employing chemiluminescent compositions with multiple

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particle size distributions of polymeric particles. Cohen et al (column 3, lines 13-36) discloses methods of making the materials and characterizes the slurry compositions as capable of being cast, molded, extruded and blow molded. It was alleged that said characterization appears to be consistent with a "fluidized solid" as claimed.

Cohen et al was deemed by the Examiner to differ from the claims in the characterization of the slurry composition as a "fluidized solid" and functional language defining the amount of second particulate effective to yield a fluidized solid admixture. The Examiner emphasized that Cohen et al (examples, particularly example 1) discloses the formation of a thick paste of a fine particle size (200 nm to 1.5 microns) followed by curing and the addition of a second particle size (medium size 70-75 microns and large 150 microns) to form a very thick smooth mixture. The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of applicants' invention to employ paste or thixotropic slurries with the multiple particle size polymers disclosed in the Cohen et al reference as very thick smooth mixtures.

Claims 13-25 and 37-50 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al, US 5,173,218, as applied to claims 1-12 and 25-37 above, and further in view of Holland et al, US 5,158,349, and Roberts, US 3,808,414. Cohen et al is characterized as further differing from claims 13-25 and 37-45 in

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the multidimensional chemiluminescent reactive system wherein the reactants are separate until the desired time of use.

Holland et al (figures and columns 2-5) and Roberts (figures and column 2, lines 1-37, particularly 16-20) disclose chemiluminescent package systems which include systems having multiple compartments that may be open to mixing reactive components. Holland et al is acknowledged to disclose concentric tubules, wherein when the inner tubule is ruptured, the chemiluminescent materials react resulting in chemiluminescence. Roberts discloses a package, wherein when the clip is removed the reactive components mix and react resulting in chemiluminescence.

These references are deemed by the Examiner to be combinable because they teach chemiluminescent compositions, methods of making and packaging therefore. The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of Applicants' invention to employ multicomponent packages of Holland et al and Roberts for the Cohen et al materials to form a chemiluminescent effect and the advantage of storage and preserving said chemiluminescent effect until a desired time.

It is respectfully submitted, that as instantly amended, and in light of the discussions held between the Examiner and Applicants' representatives, that claims 1-50 now patentably distinguish over Cohen et al, either alone, or in combination with Holland et al and Roberts.

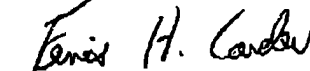
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Neither Cohen alone, nor in any combination, teach a chemiluminescent reactant in the form of a moist, packable and formable powder, as originally described by Applicants at page 39 of the specification. This powder, which Applicants originally characterized as a fluidizable solid admixture, is now positively recited in the claims, so as to particularly differentiate the claims from the slurry of Cohen et al. In view of this differentiation of the instant claim language, it is submitted that all outstanding grounds of rejection have been obviated and it is respectfully submitted that the claims ought to be allowed.

SUMMARY

In light of the foregoing remarks and amendment to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested.

Respectfully submitted,



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